

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, MUNICIPAL DEPARTMENT**

MARIO ALIANO,)
)
Plaintiff,) Case No. 09 CH 16132
v.) (Transferred to Municipal Department)
)
SEARS, ROEBUCK & CO.,) Hon. Thomas More Donnelly
) Judge Presiding
Defendant.)

MOTION FOR APPROVAL OF APPEAL BOND INSTANTER

Defendant, Sears, Roebuck & Co., by its attorneys, Greenberg Traurig LLP, and pursuant to Illinois Supreme Court Rule 305(a), respectfully moves this Court for an Order approving its Appeal Bond in the form attached hereto and in the amount of \$291,542.30, *instanter*. In support of its Motion, Sears states as follows:

1. On August 25, 2017, this Court entered an order awarding attorneys' fees to Plaintiff in the amount of \$267,470.00.
2. On September 22, 2017, Sears filed its Notice of Appeal to the Appellate Court of Illinois, First District, from the Circuit Court of Cook County, Municipal Department, First Municipal District, appealing the Court's August 25, 2017 Order awarding attorneys' fees to Plaintiff. A true and correct copy of Sears' Notice of Appeal is attached hereto as Exhibit A.
3. Contemporaneous with the filing of its Notice of Appeal, Sears moved, pursuant to Illinois Supreme Court Rule 305(c), for an extension of time to file its Appeal Bond.
4. On September 29, 2017, this Court granted Sears' motion and extended the time for the filing and approval of the appeal bond to October 13, 2017. A true and correct copy of the Court's September 29, 2017 Order is attached hereto as Exhibit B.
5. Attached hereto as Exhibit C is an Appeal Bond in the amount of \$291,542.30.

6. The amount of the Appeal Bond filed by Sears is equal to the total amount of the judgment, \$267,470.00, and per 735 ILCS 5/2-1303, a post-judgment interest rate of nine percent ("9 %"), per annum, for one year, totaling \$24,072.30. These amounts total \$291,542.30, and represent an amount sufficient to cover the amount of the judgment and costs plus interest reasonably anticipated to accrue during the pendency of the appeal. The form of the Appeal Bond is the form prescribed by the Clerk of the Circuit Court of Cook County. Accordingly the Appeal Bond satisfies all requirements of Supreme Court Rule 305(a).

7. Consistent with Supreme Court Rule 305(a), Sears is entitled to an automatic stay of enforcement of the money judgment entered by this Court in its August 25, 2017 order upon the filing of its Notice of Appeal and an appeal bond that is presented to, approved by, and filed with the Court.

8. Sears has given notice of the presentment of its Appeal Bond to all parties through their counsel.

WHEREFORE, Sears, Roebuck & Co. respectfully requests that this Court enter an Order: (1) approving its Appeal Bond in the amount of \$291,542.30 *instanter*, (2) staying the money judgment entered by the Court in its August 25, 2017 order, and (3) granting such other and further relief as the Court determines to be necessary and appropriate.

Dated: October 13, 2017

SEARS, ROEBUCK AND CO.

By: 
One of its Attorneys

Francis A. Citera
Jane B. McCullough
Paul A. Del Aguila
GREENBERG TRAURIG, LLP (#36511)
77 West Wacker Drive, Suite 3100
Chicago, Illinois 60601
Tel: 312-456-8400
Fax: 312-456-8435

*Attorneys for Defendant-Appellant
Sears, Roebuck and Co.*

EXHIBIT A

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2009-CH-16132
CALENDAR: 08
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CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK DOROTHY BROWN

APPEAL TO THE APPELLATE COURT OF ILLINOIS
FOR THE FIRST DISTRICT

FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS,
COUNTY DEPARTMENT, CHANCERY DIVISION

MARIO ALIANO,)	Reviewing Court No:
)	
Plaintiff,)	Case No. 09 CH 16132
v.)	(Transferred to Municipal Department)
)	
SEARS, ROEBUCK & CO.,)	Hon. Thomas More Donnelly
)	Judge Presiding
Defendant.)	

NOTICE OF APPEAL

You are hereby notified that Defendant-Appellant Sears, Roebuck and Co., by its attorneys Greenberg Traurig, LLP, hereby appeals to the Appellate Court of Illinois, First District, from the Order entered in this cause on August 25, 2017, by the Circuit Court of Cook County, Municipal Department, Honorable Judge Thomas More Donnelly, that granted Plaintiff-Appellee's Revised Petition for an Award of Attorneys' Fees and Reimbursement of Expenses.

Defendant-Appellant Sears, Roebuck and Co. prays that this Court vacate, reverse and/or remand the Order entered on August 25, 2017, in its entirety, specifically:

- 1) vacate the final appealable Order granting Plaintiff-Appellee's Revised Petition for an Award of Attorneys' Fees and Reimbursement of Expenses;
- 2) reverse the final appealable Order granting Plaintiff-Appellee's Revised Petition for an Award of Attorneys' Fees and Reimbursement of Expenses; and
- 3) remand the cause to the Circuit Court for implementation of the above.

//

Dated: September 22, 2017

Respectfully submitted,

SEARS, ROEBUCK AND CO.

By: /s/ Francis A. Citera
One of Its Attorneys

Francis A. Citera
Jane B. McCullough
Paul A. Del Aguila
GREENBERG TRAURIG, LLP (#36511)
77 West Wacker Drive, Suite 3100
Chicago, Illinois 60601
Phone: (312) 456-8400
Fax: (312) 456-8435

*Attorneys for Defendant-Appellant
Sears, Roebuck and Co.*

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CERTIFICATE OF SERVICE

I, Francis A. Citera, an attorney, hereby certify that I served a true and correct copy of the foregoing **DEFENDANT SEARS, ROEBUCK AND Co.'s NOTICE OF APPEAL** on September 22, 2017, on the following via first class U.S. Mail, postage prepaid:

Thomas A. Zimmerman, Jr.
Sharon A. Harris
Maebetty Kirby
Zimmerman Law Offices, P.C.
77 West Washington Street
Suite 1220
Chicago, Illinois 60602

/s/ Francis A. Citera

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EXHIBIT B

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CALENDAR: 08
PAGE 1 of 1

CIRCUIT COURT OF

IN THE CIRCUIT COURT OF COOK COUNTY, COOK COUNTY, ILLINOIS
ILLINOIS COUNTY DEPARTMENT, MUNICIPAL DEPARTMENT

CLERK DOROTHY BROWN

MARIO ALIANO,)
Plaintiff,) Case No. 09 CH 16132
v.) (Transferred to Municipal Department)
SEARS, ROEBUCK & CO.,) Hon. Thomas More Donnelly
Defendant.) Judge Presiding

ORDER

This matter coming to be heard on the motion of Sears, Roebuck and Co.'s pursuant to Illinois Supreme Court Rule 305(c) to Extend Time to File Appeal Bond and the Court having reviewed the Motion and being duly advised in the premises, it is hereby ordered:

The time for the filing and approval of the bond or other form of security is hereby extended to October 13, 2017.

The enforcement of the Court's August 25, 2017 Order is stayed to and including October 13, 2017. *The Court's August 25, 2017 order is amended nunc pro tunc 8-25-17 to incorporate and include the fee chart 29 that is attached hereto.*
Dated: September 29, 2017

ENTERED: Associate Judge Thomas M. Donnelly

SEP 29 2017 *DA*

Judge Thomas More Donnelly Circuit Court - 1803

Prepared by:
SEARS, ROEBUCK AND CO.

Francis A. Citera
Jane B. McCullough
Paul A. Del Aguila
Greenberg Traurig, LLP
77 West Wacker Drive, Suite 3100
Chicago, Illinois 60601
Tel: (312) 456-8400
Fax: (312) 456-8435
Firm No. 36511

EXHIBIT C

3316 Appeal Bond

Bond No. SUR0044701

(Rev. 9/11/02) CCA 0016

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

MUNICIPAL DEPARTMENT FIRST MUNICIPAL DISTRICT
(County) (Municipal) (Division) (District)

MARIO ALIANO

v.

No. 09 CH 16132

SEARS, ROEBUCK & CO.

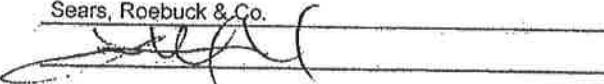
APPEAL BOND

On August 25, 2017, Judgment for \$ 291,542.30
and costs was entered for Plaintiff Mario Aliano
against Defendant Sears, Roebuck & Co.
from which Defendant Sears, Roebuck & Co.
has appealed to the First District Appellate Court of Illinois.

We jointly and severally agree to pay to the above judgment creditor any part of the judgment which is not reversed, and interest, damages and costs.

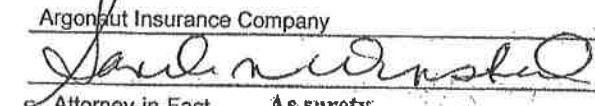
The obligation of this bond is limited to \$ 291,542.30

Sears, Roebuck & Co.



As principal

Argonaut Insurance Company



✓ Attorney-in-Fact As surety
Sandra M. Winsted

Approved:

_____,
_____,

Judge

Judge's No.

Atty. No.: 36511

Name: Paul A. Del Aguila/Greenberg Traurig, LLP

Atty. for: Defendant Sears, Roebuck & Co.

Address: 77 W. Wacker Drive, Suite 3100

City/State/Zip: Chicago, IL 60601

Telephone: 312-456-8400

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

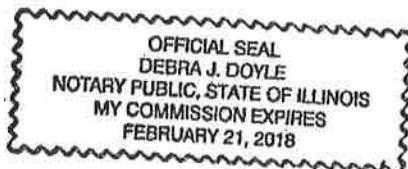
ACKNOWLEDGEMENT BY SURETY

STATE OF ILLINOIS
COUNTY OF COOK

On this 28th day of September, 2017, before me, Debra J. Doyle, a Notary Public, within and for said County and State, personally appeared Sandra M. Winsted to me personally known to be the Attorney-in-Fact of and for Argonaut Insurance Company and acknowledged that s/he executed the said instrument as the free act and deed of said Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the aforesaid County, the day and year in this certificate first above written.

Debra J. Doyle
Notary Public in the State of Illinois
County of Cook



AS-0118620

Argonaut Insurance Company
Deliveries Only: 225 W. Washington, 24th Floor
Chicago, IL 60606
United States Postal Service: P.O. Box 469011, San Antonio, TX 78246

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the Argonaut Insurance Company, a Corporation duly organized and existing under the laws of the State of Illinois and having its principal office in the County of Cook, Illinois does hereby nominate, constitute and appoint:

Marcia K. Cesafsky, Sandra M. Winsted, Susan A. Welsh, Michelle D. Krebs, Judith A. Lucky-Eftimov, Sandra M. Nowak, Derek J. Elston, Christina L. Sandoval, Ann Mullins, Anna A. Formhals, Aerje Walton, Christopher P. Troha

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed any and all bonds, contracts, agreements of indemnity and other undertakings in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

\$75,000,000.00

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolution adopted by the Board of Directors of Argonaut Insurance Company:

"RESOLVED, That the President, Senior Vice President, Vice President, Assistant Vice President, Secretary, Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be exercised by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the Company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the Argonaut Insurance Company, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Argonaut Insurance Company has caused its official seal to be hereunto affixed and these presents to be signed by its duly authorized officer on the 18th day of July, 2013.

Argonaut Insurance Company



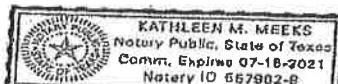
by:

Joshua C. Betz, Senior Vice President

STATE OF TEXAS
COUNTY OF HARRIS SS:

On this 18th day of July, 2013 A.D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICER OF THE COMPANY, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of same, and being by me duly sworn, deposed and said that he is the officer of the said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation, and that Resolution adopted by the Board of Directors of said Company, referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.



(Notary Public)

I, the undersigned Officer of the Argonaut Insurance Company, Illinois Corporation, do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of said Company, on the 28 day of September 2017



James Blizard, Vice President-Surety

THIS DOCUMENT IS NOT VALID UNLESS THE WORDS ARGO POWER OF ATTORNEY AND THE SERIAL NUMBER IN THE UPPER RIGHT HAND CORNER ARE IN BLUE, AND THE DOCUMENT IS ISSUED ON WATERMARKED PAPER. IF YOU HAVE QUESTIONS ON AUTHENTICITY OF THIS DOCUMENT CALL (210) 321 - 8400.

CERTIFICATE OF SERVICE

I, Paul A. Del Aguila, an attorney, hereby certify that on October 13, 2017, I served a true and correct copy of the foregoing **MOTION FOR APPROVAL OF APPEAL BOND INSTANTER** via email delivery and U.S. Mail, postage prepaid, from 77 W. Wacker Drive, Chicago, IL 60601, before 5:00 pm on the following:

Thomas A. Zimmerman, Jr.
Sharon A. Harris
Maebetty Kirby
Zimmerman Law Offices, P.C.
77 West Washington Street, Suite 1220
Chicago, Illinois 60602
tom@attorneyzim.com
sharon@attorneyzim.com
maebetty@attorneyzim.com



Paul A. Del Aguila